

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2002-0418-011-014

vs.

Michael Valentino, L.P.N.
Respondent

MEMORANDUM OF DECISION

26679

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated August 6, 2002. Dept. Exh. 2. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Michael Valentino, L.P.N. (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On September 4, 2002, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1A.

The Board issued a Notice of Hearing dated September 4, 2002, scheduling a hearing for September 18, 2002. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against him. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent. and served by State Marshal on September 9, 2002. Dept. Exh. 1B.

The hearing took place on September 18, 2002, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Tr., p. 2.

Respondent did not submit an Answer to the Statement of Charges. The Department's Motion to Deem Allegations Admitted was granted at the hearing. Tr., p. 6.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license number 026679 on February 21, 1997. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1, 2B.
2. From approximately January 2002 through March 2002, respondent fraudulently obtained Hydromorphone, Clonazepam, Lorazepam, Dilaudid, Klonopin, Ativan and Morphine while working as a licensed practice nurse; and, he abused or utilized those substances to excess. Dept. Exh. 1, 2A; Tr. p. 6.
3. From approximately January 2002 through July 2002, respondent removed medication proof of use sheets and cards from controlled substance drawers while working as a licensed practice nurse. Dept. Exh. 1, 2A; Tr. p. 6.
4. Respondent's abuse of Hydromorphone, Clonazepam, Lorazepam, Dilaudid, Klonopin, Ativan and Morphine does, and/or may, affect his practice as a licensed practical nurse. Dept. Exh. 1, 2A; Tr. p. 6.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Michael Valentino held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* § 4-177(a) and (b), and § 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as § 19a-9-1 through § 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat.* § 4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

PARAGRAPH 2 of the Statement of Charges alleges that between approximately January 2002 through March 2002, respondent fraudulently obtained Hydromorphone, Clonazepam, Lorazepam, Dilaudid, Klonopin, Ativan and Morphine, while working as a licensed practical nurse, and that he abused or utilized those substances to excess.

PARAGRAPH 3 of the Statement of Charges alleges that from approximately January 2002 through July 2002, respondent removed medication proof of use sheets and cards from controlled substance drawers while working as a licensed practical nurse.

PARAGRAPH 4 of the Statement of Charges alleges that respondent's abuse of Hydromorphone, Clonazepam, Lorazepam, Dilaudid, Klonopin, Ativan and Morphine does, and/or may, affect his practice as a licensed practical nurse.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to § 19a-9-20 of the Regulations of Connecticut State Agencies, the Board deems the allegations in each of the paragraphs of the Statement of Charges to be admitted. Dept. Exh. 1.

The General Statutes of Connecticut § 20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . . (6) fraud or material deception in the course of professional services or activities

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 2, 3, and 4 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(2), (5), (6) and 19a-17.

Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* § 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* § 19a-17 and § 20-99, the Board of Examiners for Nursing hereby orders the following:

Respondent's licensed practical nurse license number 026679, is revoked effective the date this Memorandum of Decision is signed by the Board.

The Board of Examiners for Nursing hereby informs respondent, Michael Valentino and the Department of Public Health of the State of Connecticut of this decision.

Dated at Newington, Connecticut this 19th day of March 2003.

BOARD OF EXAMINERS FOR NURSING

By 